

Appl. No. : 10/522,129
Filed : December 27, 2005

REMARKS

In the Office Action, Claims 1 and 3-9 were allowed, and Claims 2 and 10-12 were rejected. In the Allowable Subject Matter section (page 5), the Examiner raised objections of Claims 1, 3-9 which Applicant assumes were inadvertent. By this paper, Claims 2 has been amended. Reconsideration and allowance of the pending claims in light of the present remarks is respectfully requested.

§ 103(a) Obviousness Rejections of Claims 2

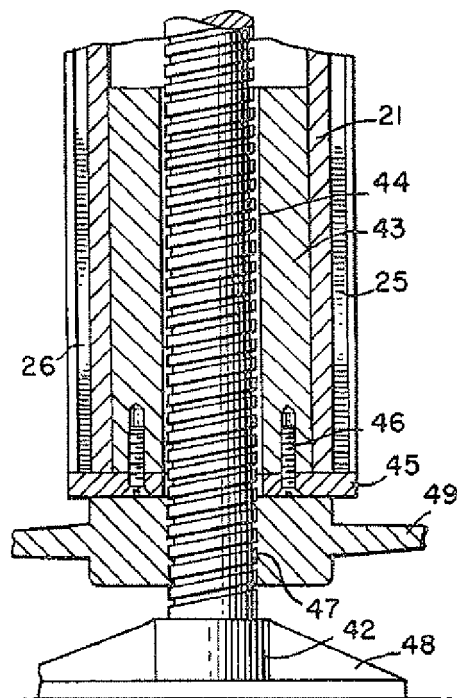
Claims 2 was rejected under 35 U.S.C. § 103(a) over Ono (U.S. Patent No. 6,161,359) in view of D'Alessio et al. (U.S. Patent No. 4,462,197).

As amended, Claim 2 recites a "coupling and anti-flexure piece movably positioned on the spindle *between the butterfly nut and the foot element*". Applicant respectfully submits that Ono and D'Alessio, either alone or in combination, fail to teach or suggest the combination of claim limitations of Claim 2 including the above-identified limitation.

In the present Office Action, the Examiner points to elements 25, 26, and 43 of Figure 8 of D'Alessio as disclosing the "coupling and anti-flexure piece". Office Action, page 3, second paragraph. Applicant respectfully disagrees with the Examiner's characterization of the elements 25, 26, and 43 as the "coupling and anti-flexure piece" because D'Alessio fails to teach or suggest that the elements 25, 26, 43 constitute a coupling and anti-flexure piece that provides both coupling and anti-flexure function for the spindle assembly.

Even assuming that the elements 25, 26, and 43 can be characterized as the "coupling and anti-flexure piece," which Applicant emphatically denies, the elements nevertheless do not meet the amended limitation of "[positioned] *between the butterfly nut and the foot element*". As Figure 8 of D'Alessio copied below illustrates, none of the elements 25, 26, and 43 is positioned between what the Examiner consider to be the butterfly nut 49 and the foot element 42, 48.

FIG. 8.



The positioning of the coupling and anti-flexure piece between the butterfly nut and the foot element (e.g., within the adjustable spindle assembly) in some embodiments of the Applicant's modular support system is relevant to the system's function as it allows an intermediate frame to be coupled across the upright elements and the coupling and anti-flexure pieces on the spindle, thereby "considerably reducing the free flexing length of the spindle". See Claim 2.

Furthermore, the elements 25 and 26, which are described as "diametrically opposed T-slots 25, 26 ...[that] are formed in the remaining two sides of each leg", fail to disclose the additional claim limitation of "a hollow cylindrical housing" as asserted by the Examiner.

Applicant also respectfully submits Ono also fails to disclose the above-identified claim limitation either by itself or in combination with D'Alessio. As indicated in Applicant's previous Office Action dated March 14, 2008, Ono fails to disclose a "coupling and anti-flexure piece *movably positioned on the spindle.*" The cylindrical stopper 56 of Ono is not a *coupling* piece

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configured to couple to another element, e.g., a girder; instead, it is a stopper configured to stop the bottom end of the pipe strut from further moving downward, similar to the butterflynut 20 in Applicant's adjustable spindle assembly. As shown in Ono Figure 15, the perforated flange 54 of Ono, abutting the jack base 53, is not height-adjustable. This conclusion is supported by related description in Ono. While the cylindrical stopper 56 is described as "fitted rotatably on the threaded rod 55," the perforated flange 54 is merely described as "provided on the lower portion of the threaded rod 55." Ono, col. 9, ll. 14-20. In addition, Applicant respectfully submits that Ono also fails to teach or suggest a coupling and anti-flexure piece that provides both coupling and anti-flexure function for the spindle assembly. In sum, Ono fails to disclose the claim limitation of "a coupling and anti-flexure piece movably positioned on the spindle between the butterfly nut and the foot element" as recited in Claim 2.

Accordingly, Applicant respectfully submits that D'Alessio and Ono, either alone or in combination, fail to teach or suggest all claim limitations of Claim 2 including the above-identified claim limitation.

In addition, Applicant respectfully submits that the above-identified feature of Claim 2 is not rendered obvious by Ono and D'Alessio because one who is skilled in the art would not consider positioning the elements 25, 26, 43 of D'Alessio that belong to the leg 21 of the D'Alessio system between the butterfly nut 56 and the foot element of 53 of Ono because the modification would render the resulting structure wholly ineffective for its intended purpose. In such a configuration, the elements designed for the leg would only pose an impediment to the system's height-adjustability in their new position. *See* M.P.E.P. § 2143.01(V) ("If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification."); *see also, In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984, cited in M.P.E.P. § 2143.01(V)) (Reversing the Board decision that claims drawn to a blood filter assembly were obvious by finding that if the prior art device was modified, it would be inoperable for its intended purpose.)

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Dependent Claims 10-12

Although Applicant has not addressed all the issues of the dependent claims, Applicant does not necessarily agree with the characterization and assessments of the dependent claims made by the Examiner.

Dependent Claims 10-12 are dependent on the independent Claim 2. Applicant respectfully submits that pursuant to 35 U.S.C. § 112, ¶4, the dependent claims incorporate by reference all the limitations of Claim 2 to which they refer and are therefore allowable if the independent Claim 2 is allowable in view of the cited references.

Applicant submits that Claim 2 is allowable for reasons given above. Therefore, Applicant respectfully requests the withdrawal of all claim rejections and prompt allowance of Claims 10-12.

Conclusion


In light of the above, reconsideration and withdrawal of the outstanding rejections and objections are specifically requested. In view of the foregoing remarks, Applicant respectfully submits that the Claims 1-12 of the above-identified application are in condition for allowance. However, if the Examiner finds any impediment to allowing all claims that can be resolved by telephone, the Examiner is respectfully requested to call the undersigned.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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